

**RESOLUTION 2007 - 105
AMENDED AND RESTATED PALM COAST PARK
DRI DEVELOPMENT ORDER**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLAGLER COUNTY, FLORIDA, APPROVING THE AMENDED AND RESTATED PALM COAST PARK DEVELOPMENT OF REGIONAL IMPACT DEVELOPMENT ORDER (AMENDED AND RESTATED DRI DO); AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO RECORD THE AMENDED AND RESTATED DRI DO IN AN APPROVED FORM; PROVIDING FOR FINDINGS; PROVIDING FOR EXECUTION AND IMPLEMENTATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on December 7, 2004 the City Council of the City of Palm Coast approved the Palm Coast Park Development of Regional Impact Development Order (DRI DO) by means of the adoption of Resolution Number 2004-48, which Resolution and DRI DO were recorded at Official Records Book 1177, Page 1796 of the Public Records of Flagler County, Florida; and

WHEREAS, on February 15, 2005 the City Council of the City of Palm Coast approved the Notice of Clarification to provide notice to the effect that City Council was in agreement that the term "Mitigation Pipeline Amount" contained on lines 20 and 21 or Page 39 of the DRI DO means the same thing as, and is synonymous with, the term "Developer's Proportionate Share Contribution" to ensure that the DRI DO fully conforms with the requirements of State Law said action being taken by means of the adoption of Resolution Number 2005-03 as recorded at Official Records Book 1215, Page 1424 of the Public Records of Flagler County, Florida; and

WHEREAS, on February 21, 2007 Florida Landmark Communities, Inc., a Florida corporation; Palm Coast Land, LLC, a Florida limited liability company; and Palm Coast Forest, LLC, a Florida limited liability company, developers of the Palm Coast Park DRI, submitted a Notice of Proposed Change to the City, the North East Florida Regional Council (NEFRC) and the Department of Community Affairs (FDCA) proposing changes to the DRI DO; and

WHEREAS, on March 22, 2007 the NEFRC issued a report to the FDCA concluding that, if the City adopts the changes as proposed in the NOPC, the proposed changes do not constitute a substantial deviation under the controlling provisions of State law; and

WHEREAS, the City Council has determined to authorize the Mayor to execute the Amended and Restated DRI DO and to authorize the City Manager, or designee, to take other implementing actions relative to the implementation of this Resolution,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Palm Coast, Flagler County, Florida, as follows:

SECTION 1. FINDINGS OF THE CITY COUNCIL.

(a). The above recitals (whereas clauses) are hereby adopted as the findings of the City Council of the City of Palm Coast.

(b). The City Council of the City of Palm Coast hereby adopts and incorporates into this Resolution the City staff report and City Council agenda memorandum and packet relating to the application relating to the proposed amendment to the DRI DO. The exhibits to this Resolution are incorporated herein as if fully set forth herein verbatim.

(c). The City of Palm Coast has complied with all requirements and procedures of Florida law in processing and advertising this Resolution and the associated Amended and Restated DRI DO.

(d). This Resolution and the approval of the Amended and Restated DRI DO are consistent with the goals, objectives and policies of the *Comprehensive Plan of the City of Palm Coast*.

SECTION 2. APPROVAL OF AMENDED AND RESTATED DRI DO. The Amended and Restated DRI DO, as set forth in Attachment 3 to this Resolution, is hereby approved by the City Council.

SECTION 3. EXECUTION OF DRI DO. The Amended and Restated DRI DO shall be executed by the Mayor and the City Clerk, after execution by the DRI property owners, and after the document is finalized and revised into a clear and recordable form. Upon full execution, the City Manager, or designee, shall cause the document to be recorded in the Official Records of Flagler County (Land Records) in accordance with the provisions of State Law at the expense of the DRI property owners.

SECTION 4. COPY PROVIDED TO FDCA. Upon full execution and recording of the Amended DRI DO, a copy of same shall be furnished to the FDCA by the City Manager, or designee.

SECTION 5. SEVERABILITY. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION 6. CONFLICTS. All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 7. IMPLEMENTING ACTIONS. The City Manager is hereby authorized to take any actions necessary to implement the action taken in this Resolution.

SECTION 8. EFFECTIVE DATE. This Resolution shall take effect immediately upon adoption and filing in the Office of the City Clerk.

PASSED and ADOPTED at the meeting of the City Council of the City of Palm Coast, Florida, on this 17th day of July 2007.

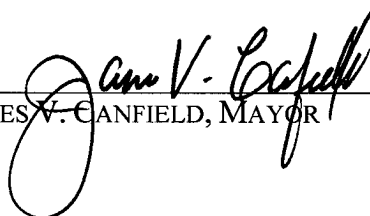
CITY OF PALM COAST, FLORIDA

ATTEST



Daniel E. Davis, Records Mgr
For Clare M. Hoeni, City Clerk

JAMES V. CANFIELD, MAYOR



Attachments:

- 1) Notice of Proposed Change
- 2) NEFRC Report
- 3) Amended and Restated DRI DO

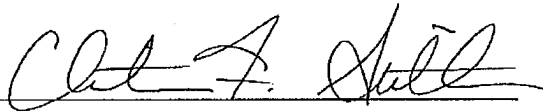
STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
DIVISION OF COMMUNITY PLANNING
BUREAU OF LOCAL PLANNING
2555 Shumard Oak Blvd. Tallahassee, Florida 32399
850/488-4925

**NOTIFICATION OF A PROPOSED CHANGE TO A PREVIOUSLY APPROVED
DEVELOPMENT OF REGIONAL IMPACT (DRI)
SUBSECTION 380.06(19), FLORIDA STATUTES**

Subsection 380.06(19), Florida Statutes, requires that submittal of a proposed change to a previously approved DRI be made to the local government, the regional planning agency, and the state land planning agency according to this form.

1. I, **Clinton F. Smith**, the undersigned authorized representative of **Florida Landmark Communities, Inc.**, a Florida corporation; **Palm Coast Land, LLC**, a Florida limited liability company and **Palm Coast Forest, LLC**, a Florida limited liability company, hereby give notice of a proposed change to a previously approved Development of Regional Impact in accordance with Subsection 380.06(19), Florida Statutes. In support thereof, I submit the following information concerning the **Palm Coast Park (formerly West Palm Coast)** development, which information is true and correct to the best of my knowledge. I have submitted today, under separate cover, copies of this completed notification to the **City of Palm Coast**, **Northeast Florida Regional Council**, and to the Bureau of Local Planning, Department of Community Affairs.

Feb. 20, 2007
Date


Clinton F. Smith

NOPC FORM

2. Applicant (name, address, phone).

**Florida Landmark Communities, Inc.; Palm Coast Forest, LLC and Palm Coast Land, LLC
1 Corporate Drive, Suite 3
Palm Coast, FL 32137
(386) 446-6226**

3. Authorized Agent (name, address, phone).

**Clinton F. Smith
One Corporate Drive, Suite 3
Palm Coast, FL 32137**

4. Location (City, County, Township/Range/Section) of approved DRI and proposed change.

City of Palm Coast, Flagler County, Government Sections 9, 15, 16, 17, 20, 21, 22, 27, 28, 29, 32, 33, 34 and 47, Township 10 South, Range 30 East and Government Sections 3, 4, 9, 10, 16, Township 11 South, Range 30 East.

5. Provide a complete description of the proposed change. Include any proposed changes to the plan of development, phasing, additional lands, commencement date, build-out date, development order conditions and requirements, or to the representations contained in either the development order or the Application for Development Approval.

See attached Summary Table of Description of Proposed Changes, together with a redlined Development Order.

Indicate such changes on the project master site plan, supplementing with other detailed maps, as appropriate. Additional information may be requested by the Department or any reviewing agency to clarify the nature of the change or the resulting impacts.

See attached revised Master Site Plan and revised Tract Map.

6. Complete the attached Substantial Deviation Determination Chart for all land use types approved in the development. If no change is proposed or has occurred, indicate no change.

See attached Substantial Deviation Determination Chart.

7. List all the dates and resolution numbers (or other appropriate identification numbers) of all modifications or amendments to the originally approved DRI development order that have been adopted by the local government, and provide a brief description of the previous changes (i.e., any information not already addressed in the Substantial Deviation Determination Chart). Has there been a change in local government jurisdiction for any portion of the development since the last approval or development order was issued? If so, has the annexing local government adopted a new DRI development order for the project?

See attached Resolution 2005-03 dated February 15, 2005.

8. Describe any lands purchased or optioned within 1/4 mile of the original DRI site subsequent to the original approval or issuance of the DRI development order. Identify such land, its size, intended use, and adjacent non-project land uses within 1/2 mile on a project master site plan or other map.

There are no lands purchased or optioned.

9. Indicate if the proposed change is less than 40% (cumulatively with other previous changes) of any of the criteria listed in Paragraph 380.06(19)(b), Florida Statutes. **NO - see attached memorandum dated February 8, 2007 from Lassiter and Associates to Florida Landmark Communities, Inc.**

Do you believe this notification of change proposes a change which meets the criteria of Subparagraph 380.06(19)(e)2., F. S.

YES

NO X

10. Does the proposed change result in a change to the buildout date or any phasing date of the project? If so, indicate the proposed new buildout or phasing dates. **NO**
11. Will the proposed change require an amendment to the local government comprehensive plan? **NO**

Provide the following for incorporation into such an amended development order, pursuant to Subsections 380.06 (15), F. S., and 9J-2.025, Florida Administrative Code:

12. An updated master site plan or other map of the development portraying and distinguishing the proposed changes to the previously approved DRI or development order conditions.

See attached revised Master Site Plan and revised Tract Map.

13. Pursuant to Subsection 380.06(19)(f), F. S., include the precise language that is being proposed to be deleted or added as an amendment to the development order. This language should address and quantify:

- a. All proposed specific changes to the nature, phasing, and build-out date of the development; to development order conditions and requirements; to commitments and representations in the Application for Development Approval; to the acreage attributable to each described proposed change of land use, open space, areas for preservation, green belts; to structures or to other improvements including locations, square footage, number of units; and other major characteristics or components of the proposed change; **See attached Summary Table Description of Proposed Changes.**
- b. An updated legal description of the property, if any project acreage is/has been added or deleted to the previously approved plan of development; **See attached updated legal description.**
- c. A proposed amended development order deadline for commencing physical development of the proposed changes, if applicable; **N/A**
- d. A proposed amended development order termination date that reasonably reflects the time required to complete the development; **N/A**
- e. A proposed amended development order date until which the local government agrees that the changes to the DRI shall not be subject to down-zoning, unit density reduction, or intensity reduction, if applicable; **N/A**
- f. Proposed amended development order specifications for the annual report, including the date of submission, contents, and parties to whom the report is submitted as specified in Subsection 9J-2.025 (7), F.A.C. **N/A**

SUBSTANTIAL DEVIATION DETERMINATION CHART

TYPE OF LAND USE	CHANGE CATEGORY	PROPOSED PLAN	ORIGINAL PLAN	PREVIOUS D.O. CHANGE & DATE OF CHANGE
Attraction/Recreation	#Parking Spaces	NONE	NONE	NONE
	#Spectators	NONE	NONE	NONE
	#Seats	NONE	NONE	NONE
	Site Locational Changes	NONE	NONE	NONE
	Acreage, including drainage, ROW, easements, etc.	NONE	NONE	NONE
	External Vehicle Trips	NONE	NONE	NONE
	D.O. Conditions	NONE	NONE	NONE
	ADA Representations	NONE	NONE	NONE
Airports	Runway (length)	NONE	NONE	NONE
	Runway (strength)	NONE	NONE	NONE
	Terminal (gross square feet)	NONE	NONE	NONE
	#Parking Spaces	NONE	NONE	NONE
	#Gates	NONE	NONE	NONE
	Apron Area (gross square feet)	NONE	NONE	NONE
	Site Locational Changes	NONE	NONE	NONE
	Airport Acreage, including drainage, ROW, easements, etc.	NONE	NONE	NONE

NOTE: IF A RESPONSE IS TO BE MORE THAN ONE SENTENCE, ATTACH A DETAILED DESCRIPTION OF EACH PROPOSED CHANGE AND COPIES OF THE PROPOSED MODIFIED SITE PLAN DRAWINGS. THE BUREAU MAY REQUEST ADDITIONAL INFORMATION FROM THE DEVELOPER OR HIS AGENT.

SUBSTANTIAL DEVIATION DETERMINATION CHART

TYPE OF LAND USE	CHANGE CATEGORY	PROPOSED PLAN	ORIGINAL PLAN	PREVIOUS D.O. CHANGE & DATE OF CHANGE
Airports Continued...	#External Vehicle Trips	NONE	NONE	NONE
	D.O. Conditions	NONE	NONE	NONE
	ADA Representations	NONE	NONE	NONE
Hospitals	#Beds	NONE	NONE	NONE
	#Parking Spaces	NONE	NONE	NONE
	Building (gross square feet)	NONE	NONE	NONE
	Site locational changes	NONE	NONE	NONE
	Acreage, including drainage, ROW, easements, etc.	NONE	NONE	NONE
	External Vehicle Trips	NONE	NONE	NONE
	D.O. Conditions	NONE	NONE	NONE
	ADA Representations	NONE	NONE	NONE
Industrial	Acreage, including drainage, ROW, easements, etc.	NONE	NONE	NONE
	#Parking Spaces	NONE	NONE	NONE
	Building (gross square feet)	NONE	NONE	NONE
	#Employees	NONE	NONE	NONE
	Chemical Storage (barrels & pounds)	NONE	NONE	NONE
	Site locational changes	NONE	NONE	NONE

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SUBSTANTIAL DEVIATION DETERMINATION CHART

TYPE OF LAND USE	CHANGE CATEGORY	PROPOSED PLAN	ORIGINAL PLAN	PREVIOUS D.O. CHANGE & DATE OF CHANGE
Industrial Continued...	#External Vehicle Trips	NONE	NONE	NONE
	D.O. Conditions	NONE	NONE	NONE
	ADA Representations	NONE	NONE	NONE
Mining Operations	Acreage mined (year)	NONE	NONE	NONE
	Water withdrawal (gal/day)	NONE	NONE	NONE
	Size of mine (acres), including drainage, ROW, easements, etc.	NONE	NONE	NONE
	Site locational changes	NONE	NONE	NONE
	#External vehicle trips	NONE	NONE	NONE
	D.O. conditions	NONE	NONE	NONE
	ADA representations	NONE	NONE	NONE
	Acreage, including drainage, ROW, easements, etc.	NONE	NONE	NONE
	Building (gross square feet)	NONE	NONE	NONE
	#Parking Spaces	NONE	NONE	NONE
Office	#Employees	NONE	NONE	NONE
	Building (gross square feet)	NONE	NONE	NONE
	Site locational changes	NONE	NONE	NONE
	#External vehicle trips	NONE	NONE	NONE
	D.O. conditions	NONE	NONE	NONE

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NOPC FORM

SUBSTANTIAL DEVIATION DETERMINATION CHART

TYPE OF LAND USE	CHANGE CATEGORY	PROPOSED PLAN	ORIGINAL PLAN	PREVIOUS D.O. CHANGE & DATE OF CHANGE
Office Continued...	ADA Representations	NONE	NONE	NONE
Petroleum/Chemical Storage	Storage Capacity (barrels &/or pounds)	NONE	NONE	NONE
	Distance to navigable waters (feet)	NONE	NONE	NONE
	Site location changes	NONE	NONE	NONE
	Facility Acreage, including drainage, ROW, easements, etc.	NONE	NONE	NONE
	#External vehicle trips	NONE	NONE	NONE
	D.O. conditions	NONE	NONE	NONE
	ADA representations	NONE	NONE	NONE
Ports (marinas)	#Boats, wet storage	NONE	NONE	NONE
	#Boats, dry storage	NONE	NONE	NONE
	Dredge and fil (cu. yds.)	NONE	NONE	NONE
	Petroleum storage (gals.)	NONE	NONE	NONE
	Site locational changes	NONE	NONE	NONE
	Port Acreage , including drainage, ROW, easements, etc.	NONE	NONE	NONE
	#External vehicle trips	NONE	NONE	NONE
	D.O. conditions	NONE	NONE	NONE
	ADA representations	NONE	NONE	NONE

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NOPC FORM

SUBSTANTIAL DEVIATION DETERMINATION CHART

TYPE OF LAND USE	CHANGE CATEGORY	PROPOSED PLAN	ORIGINAL PLAN	PREVIOUS D.O. CHANGE & DATE OF CHANGE
Residential	#Dwelling units	NONE	NONE	NONE
	Type of dwelling units	NONE	NONE	NONE
	# of lots	NONE	NONE	NONE
	Acreage, including drainage, ROW, easements, etc.	NONE	NONE	NONE
	Site locational changes	NONE	NONE	NONE
	#External vehicle trips	NONE	NONE	NONE
	D.O. conditions	NONE	NONE	NONE
Wholesale, retail, service	Acreage, including drainage, ROW, easements, etc.	NONE	NONE	NONE
	Floor space (gross square feet)	NONE	NONE	NONE
	#Parking spaces	NONE	NONE	NONE
	#Employees	NONE	NONE	NONE
	Site locational changes	NONE	NONE	NONE
	#External vehicle trips	NONE	NONE	NONE
	D.O. conditions	NONE	NONE	NONE
	ADA representations	NONE	NONE	NONE

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SUBSTANTIAL DEVIATION DETERMINATION CHART

TYPE OF LAND USE	CHANGE CATEGORY	PROPOSED PLAN	ORIGINAL PLAN	PREVIOUS D.O. CHANGE & DATE OF CHANGE
Hotel/Motel	#Rental units	NONE	NONE	NONE
	Floor space (gross square feet)	NONE	NONE	NONE
	#Parking spaces	NONE	NONE	NONE
	#Employees	NONE	NONE	NONE
	Site locational changes	NONE	NONE	NONE
	Acreage, including drainage, ROW, easements, etc.	NONE	NONE	NONE
	#External vehicle trips	NONE	NONE	NONE
	D.O. conditions	NONE	NONE	NONE
	ADA representations	NONE	NONE	NONE
R.V. Park	Acreage, including drainage, ROW, easements, etc.	NONE	NONE	NONE
	#Parking spaces	NONE	NONE	NONE
	Buildings (gross square feet)	NONE	NONE	NONE
	#Employees	NONE	NONE	NONE
	Site locational changes	NONE	NONE	NONE
	#External vehicle trips	NONE	NONE	NONE
	D.O. conditions	NONE	NONE	NONE
	ADA representations	NONE	NONE	NONE

NOTE: IF A RESPONSE IS TO BE MORE THAN ONE SENTENCE, ATTACH A DETAILED DESCRIPTION OF EACH PROPOSED CHANGE AND COPIES OF THE PROPOSED MODIFIED SITE PLAN DRAWINGS. THE BUREAU MAY REQUEST ADDITIONAL INFORMATION FROM THE DEVELOPER OR HIS AGENT.

SUBSTANTIAL DEVIATION DETERMINATION CHART

TYPE OF LAND USE	CHANGE CATEGORY	PROPOSED PLAN	ORIGINAL PLAN	PREVIOUS D.O. CHANGE & DATE OF CHANGE
Open space (al natural and vegetated non-impervious surfaces)	Acreage	NONE	NONE	NONE
	Site locational changes	NONE	NONE	NONE
	Type of open space	NONE	NONE	NONE
	D.O. conditions	NONE	NONE	NONE
	ADA representations	NONE	NONE	NONE
Preservation, buffer or special protection areas preservation (cont.)	Acreage	NONE	NONE	NONE
	Site locational changes	NONE	NONE	NONE
	Development of site proposed	NONE	NONE	NONE
	D.O. conditions	NONE	NONE	NONE
	ADA representations	NONE	NONE	NONE

NOTE: IF A RESPONSE IS TO BE MORE THAN ONE SENTENCE, ATTACH A DETAILED DESCRIPTION OF EACH PROPOSED CHANGE AND COPIES OF THE PROPOSED MODIFIED SITE PLAN DRAWINGS. THE BUREAU MAY REQUEST ADDITIONAL INFORMATION FROM THE DEVELOPER OR HIS AGENT.

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Bringing Communities Together

Baker • Clay • Duval • Flagler • Nassau • Putnam • St. Johns

March 22, 2007

Mr. Bill Pable
Resource Planning and Management
Dept. of Community Affairs
2555 Shumard Oak Drive
Tallahassee, Florida 32399-2100

RE: Palm Coast Park (fka West Palm Coast) DRI – Notice of Proposed Change

Dear Mr. Pable:

NEFRC staff has reviewed the Notice of Proposed Change for the Palm Coast Park DRI (formerly known as the West Palm Coast DRI) located in the City of Palm Coast, received February 21, 2007. The following recommendation is based upon our review of the information provided in the NOPC, as well as review comments from other agencies. According to the applicant, a comprehensive plan amendment is **not necessary** to accommodate the changes proposed in the NOPC.

The NOPC proposes a number of changes to the D.O. Several of the changes are renumbering revisions and minor text changes. Substantive changes proposed in the NOPC are summarized below.

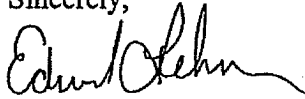
- 1) The land use total summary has been revised to allow for public schools, fire and rescue stations and other public facilities that are required by the D.O. are allowable use within the DRI. Staff notes that these are not new uses and are already permitted within the D.O., therefore, their inclusion in the land use total summary will not result in additional regional impacts.
- 2) The NOPC proposes to revise the Recreation and Open Space condition by deleting the requirement that a park site must be adjacent to a school site donated to the School Board. Staff does not believe that this will result in additional regional impacts.
- 3) The NOPC proposes an additional condition that addresses the possible swapping of DRI land with an adjacent church site. No additional development is proposed as a result of the removal of some property from the DRI and the addition of other property. The total acreage addressed in this proposed exchange is less than 30 acres, with this acreage having no regional significant land cover. Therefore, staff believes that the addition and deletion of acreage proposed in the NOPC will not result in additional regional impacts.

Mr. Bill Pable
March 23, 2007
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- 4) Exhibit H of the D.O. is being amended to reference that platting is inappropriate for tracts being developed as condominiums, and that no infrastructure improvements will be allowed for any tract until preliminary plat *or site plan* approval is received.
- 5) Exhibit H is being revised to require the linear park to be commenced within 2 years of the effective date of the D.O., not constructed.
- 6) Exhibit H is also being revised to allow for public facilities to be located anywhere within the project. Staff does not believe this will result in additional regional impacts, but recommends that the language be clearer as to what types of public facilities will be allowed.

The changes proposed in the Palm Coast Park DRI NOPC should not result in additional regional impacts. Therefore, staff recommends, if the City of Palm Coast adopts the changes as proposed in the NOPC, that the proposed changes do not constitute a substantial deviation. Should you have any questions regarding this recommendation, please contact me at (904) 279-0880.

Sincerely,



Edward Lehman
Director of Planning and Development

cc: Mr. Clint Smith
Ms. Jennifer Ingels